

Appln. Serial No. 09/995,294

Amendment Dated July 5, 2007

Reply to Restriction Requirement Mailed June 5, 2007

REMARKS

In the Restriction Requirement dated June 5, 2007, six species were identified: species I (claims 1, 2, 4, 10, 17-19, and 24); species II (claims 6, 7, and 9); species III (claims 11 and 14); species IV (claim 12); species V (claim 13); and species VI (claims 20-23). Applicant elects, with traverse, species VI (identified by the Office Action as claims 20-23). Note that newly added dependent claim 25, which depends from claim 23, is also part of the identified species VI.

It is respectfully submitted that the identification of different sets of claims as being different species is **improper**. As stated by the M.P.E.P.:

Claims are definitions of inventions. **Claims are never species.... Species are always the specifically different embodiments.**

M.P.E.P. § 806.04(c) (8th ed., Rev. 5) at 800-43 (emphasis added).

For a proper restriction based on species, the Office Action must identify specific **embodiments** in the present application. The Office Action has failed to identify embodiments; rather, the Office Action has merely identified different sets of claims as species, which is clearly improper.

Another criterion for a proper restriction requirement is that there must be a **serious burden on the Examiner** if restriction is not required. *See* M.P.E.P. § 803.01, at 800-4. Claims 1-14 have already been examined in the previous Office Action, dated April 9, 2006. In the previous Amendment, claims dependent upon claims 1 and 10 were added as new claims 17-19, and 24. Moreover, a new set of claims 20-23 were added, where the subject matter of claim 20 is similar to the subject matter of claims 1-14 (but in broader form). Since the Examiner has already examined claims 1-14, it is respectfully submitted that no *serious burden* would exist on the Examiner to continue to examine all pending claims. Since there would not be a serious burden on the Examiner, the Restriction Requirement issued is improper.

In view of the foregoing, withdrawal of the Restriction Requirement is respectfully requested.

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Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (100111405-2).

Respectfully submitted,

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